Remarks

Applicants respectfully request reconsideration of the application and allowance of all pending claims. Claims 1-83 remain pending.

In accordance with 37 C.F.R. 1.121, a marked-up version of the amendments is provided on one or more pages separate from the amendment. These pages are appended at the end of the Response.

Applicants' claimed invention has been carefully reviewed in light of the Office Action dated June 5, 2002, in which claims 5-8, 12-13, 23-26, 31-34, 38-39, 49-52, 57, 62-65, 69-70 and 80-83 were subject to restriction under 35 U.S.C. § 121. Initially, applicants hereby confirm the provisional election to continue prosecuting claims 1-4, 9-11, 14-22, 27-30, 35-37, 40-48, 53-56, 58-61, 66-68 and 71-79. However, applicants respectfully traverse the restriction requirement for the following reasons.

Independent claims 1, 27 and 58 of Group I each recite, for example, dynamically altering a set of one or more eligible thread pools, wherein a thread pool of the altered set is selected for servicing a response. Claims 5-8, 12-13, 23-26, 31-34, 38-39, 49-52, 57, 62-65, 69-70 and 80-83 of Group II are drawn to a technique for selecting a thread pool from the altered set, and not simply selecting a thread pool without more. As such, applicants respectfully submit that the subject matter of Group II literally depends on the

subject matter of Group I. In fact, applicants respectfully submit that a complete search of either invention should entail an examination of the other referenced class and subclass. Thus, because of the dependency of the subject matter, resulting in overlapping searches, applicants respectfully submit that there would be little, if any, additional burden on the Examiner to examine the Group I and II claims in the same application. Since there is little or no additional burden, applicants respectfully submit that restriction is no longer proper between the claims, and accordingly, applicants request reconsideration and withdrawal of the outstanding restriction requirement.

The Office Action required a title change, citing MPEP §606.01, to provide a complete and detailed description of the invention.

In response, applicants have amended the title to read -- Method, System and Program Products for Managing Thread Pools of a Computing Environment to Avoid Deadlock Situations by Dynamically Altering Eligible Thread Pools--. As such, applicants submit the title is clearly indicative of the claimed invention.

In the above-referenced Office Action, claims 1-4, 9-11, 14-22, 27-30, 35-37, 40-48, 53-56, 58-61, 66-68 and 71-79 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brobst et al. (U.S. Patent No. 6,125,382) in view of Schoening et al. (U.S. Patent No. 6,205,465).

Applicants respectfully, but most strenuously, traverse these rejections for the reasons below.

Applicants respectfully submit that under 35 U.S.C. § 103(c), Brobst et al., which is owned by International Business Machines Corporation of Armonk, New York, is not valid prior art for applications filed after November 29, 1999, including applications filed as continued prosecution applications after that date. In particular, § 103(c) states:

> Subject matter developed by another person, which qualifies as prior art only under one or more of subsections e, f, and g of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Thus, subject matter which was prior art under former 35 U.S.C. § 103(c) via § 102(e) is now disqualified as prior art against the claimed invention, if that subject matter and the claimed invention "were at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Applying the above law to this application, which is filed as a CPA with this preliminary amendment in September, 2002, Brobst et al. is not valid prior art. Brobst et al. issued after the filing date of the present application, and

is owned by International Business Machines Corporation, as indicated in the assignment records of the United States Patent and Trademark Office on Reel/Frame 8733/0874. Thus, applicants respectfully request withdrawal of the rejections based on this reference.

In addition, applicants submit that Schoening et al. fails to disclose, teach or suggest the present invention. As recited in claim 1, for example, applicants' invention includes a method for managing thread pools of a computing environment. The method includes receiving from a first requester of the computing environment a request to be processed, wherein the request is waiting on a response from a second requester of the computing environment, and wherein the response is to be serviced by a thread pool selected from a set of one or more eligible thread pools; and dynamically altering the set of one or more eligible thread pools to provide an altered thread pool set of one or more eligible thread pools, wherein a thread pool of the altered thread pool set is to service the request.

The present invention's aspect of, for example, dynamically altering a group of eligible thread pools from which a thread pool is selected to process a response is very different from anything taught, suggested or implied in Schoening et al. (hereinafter simply Schoening). Schoening is silent as to any discussion or suggestion of dynamically altering a set of one or more eligible thread pools. Although Schoening discusses a mechanism that provides dynamic determination of the execution sequence of processes

of executable components that completely describes the processing to be performed (col. 22, lines 51-52). The order of the executable components in Schoening may be dynamically determined, but each component's status as a member of the set of executable components is not being altered (i.e, there is no modification of an executable component's eligibility within the group). This is quite different from the present invention, in which the set of thread pools eligible for selection to process a response is dynamically altered.

Since Brobst is not valid prior art due to § 103(c) and Schoening fails to teach, suggest or imply an aspect of applicants' claimed invention, it is respectfully submitted that none of the applied references, taken individually or in combination render applicants' invention obvious. For the above reasons, applicants respectfully submit that independent claim 1, as well as the other independent claims, are patentable over the applied references. Additionally, the dependent claims are believed allowable for the same reasons as the independent claims, as well as for their own additional characterizations.

Should the Examiner wish to discuss this case with applicants' attorney, please contact applicants' attorney at the below listed number.

Respectfully submitted,

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Version with markings to show changes made

In the Specification:

On page 1 and 47 the title has been amended, as follows:

METHOD, SYSTEM AND PROGRAM PRODUCTS FOR MANAGING THREAD POOLS OF A COMPUTING ENVIRONMENT TO AVOID DEADLOCK SITUATIONS BY DYNAMICALLY ALTERING ELIGIBLE THREAD POOLS